

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1210 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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DAMJIBHAI KHIMJIBHAI

MAHESHWARI

Versus

STATE OF GUJARAT

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Appearance:

MR KALPESH N SHASTRI for Petitioner

MR DP JOSHI AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 18/11/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. Joshi, learned Assistant Government Pleader appearing for the respondents.

2. By way of this petition, the grievance has been made in respect of the alleged inaction on the part of the competent authority in respect of giving of Sanad for land of 2000 sq. mtrs. of survey No. 155/1 of Moje

Kidana, Taluka : Anjar, Kutch which came to be sanctioned by the Collector in favour of the petitioner and possession of which also came to be handed over to the petitioner. On 30th September, 1998, following order was passed :

"Heard learned advocate Mr. K.M.Shastri for the petitioner. Mr. Shastri states that the land claimed by the petitioner is not the subject matter of litigation in Special Civil Application No. 1878 of 1994.

Notice to the respondents returnable on 18.11.98."

Today, Mr. Joshi, learned Assistant Government Pleader appears for the respondents. The Circle Officer, Gandhidham Shri S.C.Mehta is also present. Under his instructions, Mr. Joshi submits that the question whether the land which is the subject matter of Special Civil Application No. 1878 of 1994 is also the subject matter of the present petition or is other than the subject matter of the aforesaid Special Civil Application No. 1878 of 1994 will be inquired into and appropriate action thereupon will be taken. He further submits that the whole exercise will be undertaken and the decision will be taken within three months from today. Under such circumstances, having heard the learned advocate for the petitioner as well as the learned Assistant Government Pleader for the respondents, following order is passed :

The concerned authority/authorities of the respondents will inquire into the matter with regard to whether the subject matter of this petition is the same as the subject matter in Special Civil Application No. 1878 of 1994 and in case the subject matter is not the same, and the land under the present petition is one which has been granted to the petitioner, said authority/authorities will proceed to issue Sanad in favour of the petitioner as per the sanction and allotment of the land to the petitioner. In case, it is found that no Sanad can be issued in favour of the petitioner herein, speaking order will be passed. All this exercise will be undertaken after giving opportunity to the petitioner of being heard into the matter. Subject to these directions, this petition is disposed of. Rule is accordingly discharged. No order as to cost.

18.11.1998. (M.S.Parikh,J.)

